

## Federal Energy Regulatory Commission

## § 2.67

(c)–(d) [Reserved]

(Sec. 7, 52 Stat. 824; 15 U.S.C. 717f)

[Order 148, 14 FR 681, Feb. 16, 1949, as amended by Order 220, 25 FR 2363, Mar. 19, 1960; Order 241, 27 FR 510, Jan. 18, 1962; Order 148–A, 38 FR 11450, May 8, 1973; 55 FR 33015, Aug. 13, 1990; Order 544, 57 FR 46495, Oct. 9, 1992; Order 544–A, 58 FR 57735, Oct. 27, 1993; Order 603, 64 FR 26603, May 14, 1999; Order 603–A, 64 FR 54535, Oct. 7, 1999; 65 FR 18221, Apr. 7, 2000; Order 737, 75 FR 43402, July 26, 2010; 77 FR 8095, Feb. 14, 2012]

### § 2.57 Temporary certificates—pipeline companies.

The Federal Energy Regulatory Commission will exercise the emergency powers set forth in the second proviso of section 7(c) of the Natural Gas Act to authorize in appropriate cases, by issuance of temporary certificates, comparatively minor enlargements or extensions of an existing pipeline system. It will not be the policy of the Commission, however, to proceed summarily, i.e., without notice or hearing, in cases where the proposed construction is of major proportions. Pipeline companies are accordingly urged to conduct their planning and to submit their applications for authority sufficiently early so that compliance with the requirements relating to issuance of permanent certificates of public convenience and necessity (when those requirements are deemed applicable by the Commission) will not cause undue delay in the commencement of necessary construction.

(52 Stat. 824; 56 Stat. 83; 15 U.S.C. 717f)

[Gen. Policy 62–1, 26 FR 10098, Oct. 27, 1961, as amended by Order 737, 75 FR 43402, July 26, 2010]

### § 2.60 Facilities and activities during an emergency—accounting treatment of defense-related expenditures.

The Commission, cognizant of the need of the natural gas industry for advice with respect to the applicability of the Natural Gas Act and the Commission's regulations thereunder regarding activities and operations of natural gas companies taking security measures in preparation for a possible national emergency, sets forth the following interpretation and statement of policy:

(a) *Facilities.* The definition of *auxiliary installations* in § 2.55(a) for which no certificate authority is necessary includes such defense-related facilities as (1) fallout shelters at compressor stations and other operating and maintenance camps; (2) emergency company headquarters or other similar installations; and (3) emergency communication equipment.

(b) The Commission will consider reasonable investment in defense-related facilities, such as those described in paragraph (a) of this section, to be *prudent investment* for ratemaking purposes.

(c) When a person, not otherwise subject to the jurisdiction of the Commission, files an application for a certificate of public convenience and necessity authorizing the construction of facilities to be used solely for operation in a national emergency for the delivery of gas to, or receipt of gas from, a person subject to the Commission's jurisdiction, the Commission will consider a request by such applicant for waiver of the requirement to keep and maintain its accounts in accordance with the Uniform System of Accounts for Natural Gas Companies (parts 201 and 204 of this chapter) or to file the annual reports to the Commission required by §§ 260.1 and 260.2 of this chapter.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063–1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854–856, 858–859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i), as amended, secs. 8, 10, and 16 (52 Stat. 825–826, 830; 15 U.S.C. 717g, 717i, 717o))

[Order 274, 28 FR 12866, Dec. 4, 1963, as amended by Order 567, 42 FR 30612, June 16, 1977]

### § 2.67 Calculation of taxes for property of pipeline companies constructed or acquired after January 1, 1970.

Pursuant to the provisions of section 441(a)(4)(A) of the Tax Reform Act of 1969, 83 Stat. 487, 625, natural gas pipeline companies which have exercised the option provided by that section to change from flow through accounting will be permitted by the Commission, with respect to liberalized depreciation, to employ a normalization method for computing Federal income taxes in their accounts and annual reports

## § 2.69

## 18 CFR Ch. I (4–1–12 Edition)

with respect to property constructed or acquired after January 1, 1970, to the extent to which such property increases the productive or operational capacity of the utility and is not a replacement of existing capacity. Such normalization will also be permitted for ratemaking purposes. As to balances in Account No. 282 of the Uniform System of Accounts, “Accumulated deferred income taxes—Other property,” it will remain the Commission’s policy to deduct such balances from the rate base of natural gas pipeline companies in rate proceedings.

(Secs. 3, 4, 5, 8, 9, 10, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063–1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854–856, 858–859; 52 Stat. 822, 823, 825, 826; 76 Stat. 72; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i); as amended, secs. 8, 10, and 16 (52 Stat. 825–826, 830; 15 U.S.C. 717c, 717d, 717g, 717h, 717i, 717o))

[Order 404, 35 FR 7964, May 23, 1970, as amended by Order 567, 42 FR 30612, June 16, 1977]

### § 2.69 [Reserved]

### § 2.76 Regulatory treatment of payments made in lieu of take-or-pay obligations.

With respect to payments made to a first seller of natural gas as consideration for waiving or revising any agreement for the first sale of natural gas, as defined by section (2)(21) of the Natural Gas Policy Act (NGPA), the Commission sets forth the following statement of general policy and interpretation of law.

(a) *Payments in consideration.* A first seller of natural gas that receives payments as consideration for amending or waiving the take-or-pay or similar minimum payment provisions of a contract for the first sale of natural gas is not in violation of section 504(a) of the NGPA.

(b) *Recovery in rates.* A pipeline that makes any payments referred to under paragraph (a) of this section, to first sellers may file to recover such costs in any section 4(e) rate filing other than a filing to recover purchased gas costs.

(c) *Case-specific review.* A pipeline’s method of recovering these costs and how it should apportion them among customers will be addressed on a case-

by-case basis in the context of individual rate case filings.

(d) *Customers’ rights.* When a pipeline seeks to recover payments referred to under paragraph (a) of this section, its customers will have the full opportunity contemplated by section 4 of the Natural Gas Act to raise questions as to the prudence of such payments, the apportionment of costs among customers proposed by the filing pipeline, and any other reasonably related matters.

(e) *Certificate amendments and abandonment.* With regard to natural gas the sale of which is subject to the Commission’s jurisdiction under the Natural Gas Act, if any payments referred to under paragraph (a) of this section are accompanied by a change in or a termination of, the first seller’s contractual obligation to provide natural gas service, the Commission will, as a general policy under sections 7(c) and 7(b) of the Natural Gas Act, expeditiously grant any certificate amendments or abandonment authorizations, required to effectuate such contractual or service modifications.

In cases where a producer abandonment application is based on payments made pursuant to this policy statement, the interstate pipeline making the payments will be deemed to have waived any right to oppose the abandonment.

[50 FR 16080, Apr. 24, 1985, as amended by Order 436, 50 FR 42487, Oct. 18, 1985]

### § 2.78 Utilization and conservation of natural resources—natural gas.

(a)(1) The national interests in the development and utilization of natural gas resources throughout the United States will be served by recognition and implementation of the following priority-of-service categories for use during periods of curtailed deliveries by jurisdictional pipeline companies:

(i) Residential, small commercial (less than 50 Mcf on a peak day).

(ii) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection requirements.

(iii) All industrial requirements not specified in paragraph (a)(1)(ii), (iv),